

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

Chelsea Nichole Bhardwaj &amp; Akshay Bhardwaj

(b) County of Residence of First Listed Plaintiff **Anne Arundel**  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Richard W. Chang, Esq. Wasserman, Mancini & Chang, PC  
1915 Eye Street, NW, Suite 300, Washington DC 20006 (202) 783-8905

**DEFENDANTS**

Chad F. Wolf, acting Secretary of Dept. of Homeland Security, et al.

County of Residence of First Listed Defendant **District of Columbia**  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Robert K. Hur, U.S. Attorney  
36 South Charles Street, 4th Floor, Baltimore, MD 21201

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                                   | DEF                                   |   | PTF                        | DEF                        |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2            | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3            | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**V. ORIGIN** (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
28 U.S.C. § 1361

Brief description of cause:  
Petition for Mandamus

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

12/27/19

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

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CHELSEA NICHOLE BHARDWAJ  
and AKSHAY BHARDWAJ  
529 Oakton Road  
Odenton MD 21113-1336,

Plaintiffs,

v.

Chad F. Wolf, in his official capacity  
As acting Secretary of Homeland Security  
U.S. Department of Homeland Security,  
c/o Office of the General Counsel  
245 Murray Lane, SW  
Mail Stop 0485  
Washington, DC 20528-0485

U.S. Department of Homeland Security,  
c/o Office of the General Counsel  
245 Murray Lane, SW  
Mail Stop 0485  
Washington, DC 20528-0485

Kenneth T. Cuccinelli II (or successor), in his  
Official capacity as Acting Director of US  
Citizenship and Immigration Services,  
c/o Office of the General Counsel  
245 Murray Lane, SW  
Mail Stop 0485  
Washington, DC 20528-0485

U.S. Citizenship & Immigration Services  
245 Murray Lane, SW  
Mail Stop 0485  
Washington, DC 20528-0485

MICHAEL HORVATH, in his official capacity  
As Field Office Director of  
Pennsylvania – Pittsburgh Field Office,  
Penn Center East Building 7,  
777 Penn Center Boulevard,  
Suite 600,  
Pittsburgh, PA 15235  
Defendant.

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Civil Action No.

**PETITION FOR MANDAMUS  
AND REVIEW OF AGENCY  
UNDER THE ADMINISTRATIVE  
PROCEDURES ACT**

**COMPLAINT FOR REVIEW UNDER THE ADMINISTRATIVE PROCEDURE ACT  
AND FOR WRIT OF MANDAMUS**

Chelsea Nichole Bhardwaj and Akshay Bhardwaj (“plaintiffs”) respectfully ask this Court to compel the defendant, U.S. Citizenship and Immigration Services (“defendant”) to adjudicate Mr. Bhardwaj application for lawful permanent residence and visa petition. Plaintiffs filed these applications on November 24, 2017 and they have now been pending for well over two years. Although plaintiffs have attended the interview with USCIS and have repeatedly inquired about the status of their applications, USCIS still has not adjudicated them. Counsel, Mark Mancini, also attended an Infopass appointment to get information on the applications on January 29, 2019. During this appointment the agency informed him that the adjudications would take place shortly. This has not happened.

**JURISDICTION**

1. This Court has jurisdiction to hear this case under 28 U.S.C. § 1361, The Mandamus Act, and 28 U.S.C. § 1331, Federal Question Jurisdiction. This matter arises under 5 U.S.C. §§ 701-706, the Administrative Procedure Act, and The Mandamus Act.

**VENUE**

2. The U.S. District Court for the District of Maryland is a proper venue for this action under 28 U.S.C. § 1391(e)(1)(C) because the plaintiffs live in Odenton, Maryland and no real property is involved in this action.

**THE PARTIES**

3. Plaintiff Akshay Bhardwaj is a native and citizen of India. He submitted an application for lawful permanent residence which is still pending.
4. Plaintiff Chelsea Nichole Bhardwaj is a United States citizen and Mr. Akshay Bhardwaj’s wife. She submitted an immigrant visa petition on his behalf.

5. Defendant Chad Wolf, according to regulation is to be served at the Office of General Counsel, 245 Murray Lane, SW, Mail Stop 0485, Washington, DC 20528-0485. Defendant Chad Wolf is the United States Secretary of Department of Homeland Security (DHS) and this action is brought against him in his official capacity. He is charged with, among other things, “[a]ll authorities and functions of the Department of Homeland Security to administer and enforce the immigration laws.” 8 U.S.C. § 1103(a); 8 C.F.R. § 2.1.
6. Defendant Kenneth T. Cuccinelli II’s mailing address is District Director, USCIS, 245 Murray Lane, SW, Mail Stop 0485, Washington, DC 20528-0485. Defendant Kenneth T. Cuccinelli II is the Acting Director of the United States Citizenship and Immigration Services (USCIS), an agency within the DHS to whom the Secretary’s authority has in part been delegated and is subject to the Secretary’s supervision. He is being sued in his official capacity. Defendant Director administers the immigration laws on behalf of the Secretary for Homeland Security and the DHS throughout the United States. 8 C.F.R. § 100.2(a).
7. Defendant, Michael Horvath’s mailing address is Field Office Director, USCIS, Penn Center East, Building 7, 777 Penn Center Boulevard, Suite 600, Pittsburgh, PA 15235. Defendant Michael Horvath is the Field Office Director at the USCIS Pittsburg- Philadelphia Field Office which is processing plaintiffs’ applications. Mr. Horvath is sued in his official capacity.

### **FACTUAL ALLEGATIONS**

8. Mr. Bhardwaj, with prior counsel, submitted to USCIS an application for adjustment of status to that of a lawful permanent resident. Ex. 1, I-485 Receipt Notice.

9. Ms. Bhardwaj, with prior counsel, concurrently submitted to USCIS an application for an immigrant visa on Mr. Bhardwaj's behalf.<sup>1</sup> Ex. 2, I-130 Receipt Notice.<sup>1</sup>
10. USCIS received Mr. Bhardwaj's application for adjustment of status and Ms. Bhardwaj's visa petition on November 24, 2017.
11. On December 26, 2017, Mr. Bhardwaj, attended his biometrics appointment, where USCIS took his fingerprints, photograph and signature for a background investigation. Ex. 3, I-485 Biometrics Appointment with Processing Stamp.
12. On February 22, 2018, plaintiffs had their first interview on their applications at the Pennsylvania – Pittsburgh Field Office in Pittsburgh, Pennsylvania. Plaintiffs attended the interview with prior counsel. At the end of the interview, USCIS held the applications for review and did not issue a Request for Evidence. The officer told the plaintiffs that they would receive a decision within their standard timing: 90-120 days.
13. On January 7, 2019, current counsel sent a letter to USCIS inquiring about the cases and with further evidence in favor the applications. This was done because the plaintiffs had not heard anything from USCIS and it had been over 10 months since the interview and last contact from USCIS.
14. On January 29, 2019, current counsel attended an "Infopass" Appointment at the Pennsylvania – Pittsburgh Field Office to request an update for their case. Counsel was advised that the file was send over to the Fraud Detection and National Security ("FDNS") department within USCIS and the officer would make a recommendation to get the file back as soon as possible. He was told that the officer expected that USCIS would make the decision within 30 days.

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<sup>1</sup> An application for lawful permanent residence based on marriage to a U.S. citizen must be supported by an immigrant visa petition filed by the U.S. citizen spouse. 8 U.S.C. § 1255(a)(2) (2012).

15. On April 15, 2019, current counsel sent a second letter to USCIS inquiring about the cases and with further documentation for the applications as USCIS had no contact with the plaintiffs since their February 2018 interview.
16. On July 3, 2019, current counsel sent a third letter to USCIS inquiring about the cases and further evidence for the applications as USCIS had not contacted the plaintiffs for another 2 months. In that letter, USCIS was advised that counsel would file a Mandamus by August 1, 2019 if no decision was made by that date.
17. As of the date of filing, even after the multiple inquires in regards to the plaintiffs' cases, USCIS has not responded to any. No Request for Evidence has been issued for the cases. The plaintiffs have not been asked to appear to additional interviews.
18. USCIS has not made a decision within the promised timeframe and has had no further contact with the plaintiffs.
19. As of the date of filing, USCIS has not issued a decision on Mr. Bhardwaj's permanent residence and visa applications for more than a year and a half.
20. There are no administrative remedies available to Mr. Bhardwaj. He has repeatedly contacted USCIS to request action on his case without response. He even threatened with litigation. None of these efforts have prompted USCIS to perform its duty to adjudicate the applications.

**CAUSE OF ACTION: APA/MANDAMUS**

21. Plaintiffs incorporate the foregoing paragraphs by reference.
22. The Administrative Procedure Act imposes a duty on an agency to "conclude a matter presented to it" within "a reasonable time." 5 U.S.C. § 555 (2012). A reviewing court "shall...compel agency action unlawfully withheld or unreasonably delayed." 5 U.S.C. § 706 (2012).

23. USCIS's delay of over a year and a half in deciding the permanent residence and visa applications is unreasonable. *Aslam v. Mukasey*, 531 F. Supp. 2d 736, 743 (E.D. Va. 2008) (finding unreasonable a nearly three-year delay in the adjudication of an application for lawful permanent residence); *Razaq v. Poulos*, No. C06-2461 WDW, 2007 WL 61884, at \*3 (N.D. Cal. Jan. 8, 2007) (finding mandatory duty to adjudicate I130 visa petition).
24. Mr. Bhardwaj asks the Court to order USCIS to adjudicate his permanent residence and visa applications within 45 days under the Administrative Procedure Act.
25. Mr. Bhardwaj also asks for a writ of mandamus compelling USCIS to adjudicate his permanent residence and visa applications within 45 days.

#### **REQUEST FOR RELIEF**

26. Plaintiffs pray for judgment against U.S. Citizenship and Immigration Services within the U.S. Department of Homeland Security and respectfully request that the Court enters an order:
  - a. Requiring defendant to adjudicate Mr. Bhardwaj's application for adjustment of status within 45 days;
  - b. Requiring defendant to adjudicate Ms. Bhardwaj's visa application filed on behalf of Mr. Bhardwaj within 45 days.
  - c. Awarding plaintiffs reasonable attorney's fees under the Equal Access to Justice Act; and
  - d. Granting such other relief at law and in equity as justice may require.

Respectfully submitted,

s/Richard W. Chang

Richard W. Chang

Counsel for Plaintiffs

Wasserman Mancini and Chang PC

1915 I (“Eye”) Street, Suite 300

Washington, District of Columbia 20006

Telephone: 202-783-8905

Fax: 202-333-1688

Richard.chang@wmclawfirm.com



Index of Exhibits

Number	Description
Exhibit 1	I-485 Receipt Notice
Exhibit 2	I-130 Receipt Notice
Exhibit 3	I-485 Biometrics Notice with Processing Stamp